REMARKS

This is in response to the Non-Final office action dated August 20, 2007. There are 11 claims (1-10 and 20) pending in the case and all claims stand rejected. Applicant is submitting this response in order to place the case in condition for Allowance.

This response is to address an office action which was issued by the Examiner as a Non-Final Action, the Examiner having removed the Finality of the Office Action received on January 10, 2006, and which was appealed to the Board of Appeals. However, that appeal has been rendered moot as a result of this overriding Non-Final Office Action issued by the Examiner, and the merits of that action will be addressed herein.

First, the Examiner objected to the Specification regarding certain wording informalities. As requested by Examiner, Applicant has completed a thorough and thoughtful review of the Specification and has attempted to correct the wording issues as cited and to correct similar deficiencies.

The Examiner objected to Claims 1 and 7 due to an improper subscript in the claims. That has been corrected through this response.

The Examiner also rejected claims 1, 5-7, 9 and 20 under 35 USC 112, second paragraph, as being indefinite. Applicant has amended the claims to remove the indefinite character of the claims. That rejection should be withdrawn.

Turning now the substantive rejections under 35 USC 103(a), the Examiner rejected claims 1-0 and 20 as being unpatentable over Applicant's admissions in view of US Patent 6,132,653, to Hunt et al, the publication noted in the office action (hereinafter "Krishnankutty publication" and the publication noted in the office action (hereinafter "Rodriguez publication").

Applicant acknowledges the rejection by the Examiner and respectfully traverses. The combination which the Examiner has put together, i.e., "Krishnankutty publication" and the "Rodriguez publication") cannot alone render the claims Obvious under Section 103(a) without (a) including a statement in the specification (pg. 3, lines18-22) made by the Applicant, (b) that the statement was an admission that the '653 Hunt patent was prior art (c) and by making the

statement, the Applicant is admitting that his claimed invention is taught by the '653 reference in such a way to render the claims Obvious under Section 103. To support this position, the Examiner states:

"...Applicants have stated "*The catalysts which are key to the products and yield* achieved are prepared to specific parameters (size distribution, composition and crystallinity) specified and via a flame synthesis test as *taught in U.S. Patent No. 6,132,653*. (emphasis added."

This quote is being extracted from the specification, piecemeal. The entire paragraph from where it is extracted is recited below:

In the present invention, a carbon nanofiber system is synthesized with very high purity (above 95%), high crystallinity, selectivity of the carbon morphology, and exceptionally high yield. A custom made catalyst with an average single crystal-particle size of ≤ 10 nm and a high surface area (>50 m^2/g), provides a higher morphological selectivity and higher reactivity than heretofore attainable. The reactivity of these catalyst particles is maintained even after 24 hours reaction such that yield exceeds 200g carbon per gram of catalyst. The catalysts which are key to the products and yield achieved are prepared to specific parameters (size distribution, composition and crystallinity) specified and *via a flame synthesis process as taught in U.S. Patent No. 6,132,653*. The disclosure of U.S. Patent No. 6,132,653, is totally incorporated herein by reference thereto. (Emphasis added) (Spec., pg. 3, lines 9-24)

Applicant would point out that the reference to the '653 patent, which is clearly prior art, is making reference only to "the flame synthesis process" as taught by the '653 patent, certainly not the resulting catalyst with the novel attributes as recited in the paragraph and which is part of the claims. In would be highly incongruous for Applicant to blatantly admit in the body of the application, that his invention is taught in the prior art. The fact that the Applicant seeks to have the '653 patent "incorporated herein by reference thereto," is to have the flame synthesis process incorporated by reference, without having to fully explain that process. In addition, applicant, in dependent claim 3, states that the catalyst is made via the flame synthesis test. It is not unusual for a dependent claim to claim additional subject matter which may not be novel, and certainly, in this case, the flame synthesis process as taught by the '653 patent is prior art, but it is informational prior art for sake of disclosure. It is critical that a careful reading of the '653 patent nowhere suggests a catalyst being developed with the attributes of the claimed

invention; i.e., the process for producing nanocarbon materials, as claimed in independent claims 1 and 7. Furthermore, the Examiner never points to any portion of the '653 patent as containing such information.

It is clear from this discussion that the novelty resides in the process which utilizes the catalyst to produce the resultant nano-carbon product. Furthermore, the Hunt reference, which is referred to, even in combination with the "Krishnankutty publication" and the "Rodriguez publication" would not teach the combination as claimed in the independent claims 1 and 7. There is no suggestion that this combination of references teach the invention as claimed.

Having addressed the rejections of the Examiner, applicant would request reexamination of the claims, and respectfully submits that the application is in condition for allowance. A Notice of Allowance is hereby respectfully requested.

Should the Examiner feel that a telephone conference would advance the prosecution of this application, he is encouraged to contact the undersigned at the telephone number listed below.

Applicant respectfully petitions the Commissioner for any extension of time necessary to render this paper timely.

The fees due of $460 for a 2 month extension of time is being charged to Deposit Account No. 50-0694. However, if this amount is insufficient, please charge any fees due or credit any overpayment to Deposit Account No. 50-0694.

Respectfully submitted,

/Gregory C. Smith #29441/
Gregory C. Smith, Reg. No. 29,441
Email: gregsmith@gsnn.us
Brett A. North, Reg. No. 42,040
Seth M. Nehrbass, Reg. No. 31,281
Charles C. Garvey, Jr., Reg. No. 27,889
GARVEY, SMITH, NEHRBASS & NORTH, L.L.C.
PTO Customer No. 22920
3838 N. Causeway Blvd., Suite 3290

Metairie, LA 70002
Tel.: (504) 835-2000
Fax: (504) 835-2070

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